

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Case No. 10-53533

JOHN G. SZYMANSKI, SR.

Chapter 12

Debtor.

Judge Thomas J. Tucker

_____/

ORDER DENYING MOTION FOR RECONSIDERATION

This case comes before the Court on Debtors' "Motion for Reconsideration and Re-Establishment of Carol A. Szymanski as a Debtor," filed on May 19, 2010 (Docket # 32, the "Motion"), which this Court construes as a motion for reconsideration of, and for relief from, the May 11, 2010 Order dismissing this case as to Carol A. Szymanski (Docket # 28), and

The Court having reviewed and considered the Motion, and

The Court finds the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

Furthermore, the allegations in the Motion do not establish any valid ground under Fed.R.Civ.P. 60(b)(1), FedR.Bankr.P. 9024, for relief from the order at issue.

In addition, the Court notes the following. First, the Motion and related papers only confirm that Carol Szymanski did *not* receive the required credit counseling briefing under 11 U.S.C. § 109(h) before the bankruptcy petition was filed in this case on April 23, 2010. Rather, the Motion confirms that Carol Szymanski did not receive such a credit counseling briefing until, at the earliest, April 26, 2010. This is consistent with the credit counseling certificate filed by Carol Szymanski (Docket 19). As a result, the Court's order dismissing this case as to Carol

Szymanski was both correct and required. Under the clear language of § 109(h)(1), Carol Szymanski "may not be a debtor" in this case. So the Court has no discretion to reinstate the case as to Carol Szymanski.

Second, neither this Order nor the order dismissing this case as to Carol Szymanski precludes Carol Szymanski from now filing her own, new Chapter 12 case, and then seeking to jointly administer that case with this one.¹

NOW, THEREFORE,

IT IS ORDERED that the Motion should be, and is, DENIED.

Signed on May 21, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge

¹ Any such new case should be filed in the Northern Division of this District, at Bay City, as a "companion case" to this one. That is because today the Court is entering an order granting the Debtor's motion to transfer this case to the Northern Division, at Bay City.